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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,762	10/07/2003	Robert L. Ilich	5175-154	5230

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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

EXAMINER	
CHIN, PAUL T	

ART UNIT	PAPER NUMBER
3652	

DATE MAILED: 02/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/680,762	ILICH, ROBERT L.	
	Examiner	Art Unit	
	PAUL T. CHIN	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 December 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *5-8 and 10-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *5-8 and 10-18* is/are allowed.

6)☒ Claim(s) *19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *07 October 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Applicant's amendment filed December 2, 2004, and the arguments presented therewith have been carefully considered. With respect to claims 5-8 and 10-18, they are persuasive in light of the amended claims and the claim rejections have been withdrawn. However, applicant's argument (with respect to claim 19) has been considered but is moot in view of the new ground(s) of rejection. A non-office action follows as below.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The exact meaning of the phrase "inducing vacuum within the interior of the vacuum cup by forcing air flow through the vacuum housing first passageway, wherein contaminants are pulled upwardly through the second passageway and out the venturi assembly" (claim 19, lines 14-18) is not clearly understood. Applicant recites in lines 5-8 that "the venturi assembly produces sub-atmospheric pressure within the second passageway upon the flow of air through the first passageway". If an air can flow from the second passageway (20) through the first passageway (16), it is not clearly understood as to how "the contaminants" are pulled upwardly through the second passageway and then out the venturi assembly.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claim 19, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Cagle (3,967,849) in view of Lewis (5,056,464).

Cagle (3,967,849) discloses a vacuum lifting device and a method of gripping comprising a vacuum housing (12) (Fig. 1) having first (70) and second passageways (20,74), a removable venturi assembly (24) in communication with the passageways, a substantially flexible suction cup (10) removably secured to the housing. The reference does not show a method of immersing the cup in a bath of cleaning solution and pulling the contaminants through the second passageway. However, Lewis (5,056,464) shows a suction cup (31,32) being immerged in a cleaning solution or bath (46) (Fig. 12) to clean up the contaminants after gripping eggs. Accordingly, it would have been obvious design choice to those skilled in the art to immerse the cup (10) of Cagle's device (3,967,849) into a fluid (i.e. a cleaning solution) of Lewis (5,056,464) so that the contaminants would be cleaned and wiped out.

6. Claim 19, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Vollrath (3,921,971) in view of Lewis (5,056,464).

Vollrath (3,921,971) discloses a vacuum lifting device and a method of gripping comprising a vacuum housing (1) (Fig. 1) having first (3a) and second passageways (15), a suction generating means, a venturi assembly (Fig. 1) in communication with the passageways, a substantially flexible suction cup (8) secured to the housing. The reference does not show a method of immersing the cup in a bath of cleaning solution

and pulling the contaminants through the second passageway. However, Lewis (5,056,464) shows a suction cup (31,32) being immerged in a cleaning solution or bath (46) (Fig. 12) to clean up the contaminants after gripping eggs. Accordingly, it would have been obvious design choice to those skilled in the art to immerse the cup (8) of Vollrath's device (3,921,971) into a fluid (i.e. a cleaning solution) of Lewis (5,056,464) so that the contaminants would be cleaned and wiped out.

Allowable Subject Matter

7. Claims 5-8 and 10-18 are allowed.

Response to Arguments

8. Applicant's amendment filed December 2, 2004, and the arguments presented therewith have been carefully considered. With respect to claims 5-8 and 10-18, they are persuasive in light of the amended claims and the claim rejections have been withdrawn. However, applicant's argument (with respect to claim 19) has been considered but is moot in view of the new ground(s) of rejection.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL T. CHIN whose telephone number is (703) 305-1524. The examiner can normally be reached on MON-THURS (7:30 -6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EILEEN LILLIS can be reached on (703) 308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PAUL T. CHIN
Examiner
Art Unit 3652